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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,157	02/26/2004	Andrew Jay Bean	3638-117	9152
23117	7590	12/11/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			SALATA, ANTHONY J	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

BJ

Office Action Summary	Application No. 10/786,157	Applicant(s) BEAN, ANDREW JAY	
	Examiner Jonathan Salata	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4-26-04, 6-2-05</u> | 6) <input type="checkbox"/> Other: ____ |

Art Unit: 2837



UNITED STATES DEPARTMENT OF COMMERCE
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Washington, D.C. 20231

Paper No:20061207
Application No:10/786157
Filing Date: February 26,2004

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It should be brief but technically accurate and descriptive, preferably from two to seven words. See 37 CFR 1.72(a).

2. Claims 1-12 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-22 of copending Application No. 10/786164. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Controlling the boom angle based on several options is seen as the same as plural paths in 10/786164.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terminology of "angle relative to gravity" is unclear. Does applicant intent to be relative to ground ??

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2837

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton (5390104) and Ashworth (4179010).

Fulton teaches in figures 1-20, a suspended work station comprising a telescoping boom lift on a vehicle. A chassis 10 having wheels 20 and has pedestal 11, mounted on pillar 13 and has telescopic boom 15 mounted thereon. The boom has pivot 16 and remote from the pivot is workstation 17. Based on a detection of center of gravity and boom angles, the boom angle is set at vehicle drive. Operation of the boom will not be allowed if unsafe parameters are met.

Fulton does not illustrate a pivotally coupled main boom.

Ashworth teaches that to enhance positioning of a workbasket or tool, it is advantageous to provide a pivotally coupled main boom. Thus it would have been obvious to one of ordinary skill in the art to provide a pivotally coupled main boom.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton et al and Ashworth as applied to claims 1-11 above, and further in view of Yoshimatsu et al (5251768).

Fulton and Ashworth do not illustrate inclinometers

Yoshimatsu et al teaches that it is common to utilize inclinometers to sense boom angles and rotation. Thus, to utilize known sensors would have been an obvious engineering design choice to one of ordinary skill in the art.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rocke, Smith and Merz are cited to illustrate similar boom operators with angle control systems.

A shortened statutory period for response to this action is set to expire 3 months from the date of this letter.

Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

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Any inquiry of a **general nature** should be directed to the **Group receptionist** whose telephone number is **(571) 272-2800**.

Information regarding the STATUS of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PARI. Status information for unpublished applications is available through Private PAIR ONLY. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Any questions on access to PAIR, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 (November 15, 1989). The Fax Center number is (571) 273-8300.

For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Inventors Assistance Center (IAC)** whose telephone number is **800-PTO-9199 or 800-786-9199**. Assistance is also available on the Internet at www.uspto.gov.

For requesting **copies of Cited Art, Office Actions or the like, response to Status Letters, lost papers or files or General Problem solving**, calls should be directed to the **TC 2800 Customer Service Office** whose telephone number is **571-272-2800 or by fax at 571-273-8300**.

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Jonathan Salata** whose telephone number is **(571) 272-2073**. The examiner does not have as detailed access as the previously listed numbers with regard to status or general problem solving. The examiner can normally be reached on Monday through Thursday from 7:30 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan, can be reached on (571) 272-2800 ext 27.

ajs

December 7, 2006


JONATHAN SALATA
PRIMARY EXAMINER
ART UNIT 2837


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER